

UNITED STATES DISTRICT COURT
for the
Western District of Texas

2020 FEB 24 AM 10:37

United States of America

v.

Jorge Alonso GUTIERREZ

Defendant(s)

Case No.

EP20MJ1343-*rfc*

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of February 20, 2020 in the county of El Paso in the
Western District of Texas, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 USC 545	Smuggling Goods into the United States
18 USC 371	Conspiracy
18 USC Section 2	Aiding and Abetting

This criminal complaint is based on these facts:

See attached affidavit

Continued on the attached sheet.


Complainant's signature

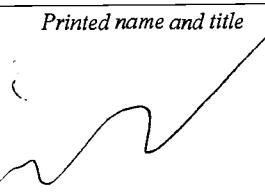
Albert L. Gonzalez, Special Agent

Printed name and title

Sworn to before me and signed in my presence.
 Sworn to telephonically and signed electronically.

Date: February 24, 2020

City and state: El Paso, Texas


Robert Castaneda, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

Background

In May 2016, the United States Fish and Wildlife Service (USFWS) initiated Operation Bale Out, an investigation into wildlife trafficking between the United States and Mexico. The investigation revealed that wildlife, much of which was protected under both U.S. and Mexico laws, was smuggled into and out of the United States. As part of the investigation, USFWS learned that El Paso, Texas, and Juarez, Mexico, served as distribution centers, by which wildlife being transported to the United States was first transported from points in Mexico to Juarez, Mexico, where it was retrieved and driven across the U.S. – Mexico Border to El Paso, Texas. From El Paso, the wildlife was then sold to individuals throughout the United States.

Based on records obtained during the investigations and other information, USFWS agents learned that between 2015 and the present, this trafficking ring smuggled hundreds of species, which represented thousands of animals, into and out of the United States. It is estimated that the market value of the animals smuggled by individuals identified in the investigation exceeded \$5,836,611.

On December 4, 2019, a federal grand jury, sitting in the El Paso division of the Western District of Texas issued an indictment charging Alejandro Carrillo as one of the conspirators involved in the wildlife smuggling scheme. Attached hereto as Exhibit 1 is the December 4, 2019, Indictment of Alejandro Carrillo, which provides details of the ongoing conspiracy to traffic wildlife across the U.S. – Mexico border. Count 1 of the indictment charges conspiracy to traffic wildlife (18 U.S.C. § 371) and alleges that Alejandro Carrillo conspired with others known and unknown. (Exhibit 1, ¶ 20). JORGE ALONSO GUTIERREZ, the subject of this criminal complaint, was one of the unknown conspirators referenced in Exhibit 1, who conspired with Alejandro Carrillo and others to traffic wildlife.

The indictment, attached as Exhibit 1, is hereby incorporated by reference into this Affidavit as if fully set out herein.

This affidavit details a portion of GUTIERREZ's conduct learned during this investigation.

JORGE ALONSO GUTIERREZ' Role in the Conspiracy

JORGE ALONSO GUTIERREZ is involved with the smuggling of wildlife between the United States and Mexico. USFWS learned of GUTIERREZ through Operation Bale Out. Records received from Facebook, showed that GUTIERREZ, who is a Mexican national and was based in Juarez, Mexico, sold wildlife to customers in the United States. In addition to selling wildlife, GUTIERREZ acted as the point-of-contact in Mexico for wildlife suppliers, who are identified in Exhibit 1 as CC-1, CC-2, CC-3, and CC-4. (Exhibit 1, ¶ 20). After agreeing to a sale via Facebook, the suppliers arranged for the animals to be delivered to CC-1, in Mexico City. From Mexico City, CC-1 shipped the

animals (via air freight) to Juarez, Mexico. Once the shipment arrived in Juarez, GUTIERREZ retrieved the animals from the airport and transported them to a pre-arranged meeting place in Juarez, where he delivered the animals to Alejandro Carrillo¹, who then smuggled the animals into the United States. In addition to delivering the animals to Carrillo, GUTIERREZ supplied Carrillo with shipping labels, which contained the addresses in the United States to which Carrillo shipped the animals. According to Carrillo, almost all of the animals he smuggled into the United States as part of the conspiracy, involved retrieving the animals from GUTIERREZ, in Juarez, Mexico.

Based on records obtained during this investigation, including records obtained from Facebook, and information obtained from a cooperating witness, GUTIERREZ was involved in every transaction detailed in Counts 1 through 13 of Exhibit 1. For each of those transactions, CC-1, CC-2, CC-3, or CC-4, delivered the animals to GUTIERREZ, in Juarez, Mexico. Typically, the animals were shipped to Juarez via air freight and GUTIERREZ retrieved the shipments from the airport in Juarez. To avoid inspection at the airport, GUTIERREZ paid employees at the airport in Juarez to not inspect the shipments.

After retrieving the animals from the airport, GUTIERREZ arranged with Alejandro Carrillo to meet at a specific location in Juarez, where GUTIERREZ delivered the animals to Carrillo. As detailed in Exhibit 1, Carrillo then transported the animals from Mexico into the United States, and distributed the animals to the U.S. – based customers. Records reviewed during the investigation show that GUTIERREZ knew Carrillo was illegally transporting the animals into the United States. Records also show that GUTIERREZ provided Carrillo with shipping labels, for Carrillo to ship the animals to the U.S. – based customers.

GUTIERREZ'S Recent Smuggling of Wildlife

On or about December 11, 2019, USFWS agents executed a search warrant at a residence in Franklin, Tennessee, owned by an individual (hereinafter “the purchaser”) who agents knew had purchased wildlife from Mexican suppliers on multiple occasions. During the execution of the warrant, USFWS agents discovered a package containing wildlife that had been delivered to the purchaser at his residence on December 11, 2019. The package contained four Giant South African Ground geckos (*Chondrodactylus angulifer*), as well as the following species listed in Appendix II of the Convention on International Trade of Endangered Species in Wild Flora and Fauna (CITES): two Black Girdled lizards (*Cordylus niger*), five African Spiny lizards (*Cordylus spp*), and one Australian Pilbara Rock monitor (*Varanus pilbaransus*). According to Facebook records and Carrillo, the purchaser ordered the reptiles from Mexican suppliers who then shipped the wildlife to GUTIERREZ in Juarez, Mexico. GUTIERREZ then delivered the

¹ Alejandro Carrillo has been charged in a 13-count indictment in the Western District of Texas attached as Exhibit 1. Agents have interviewed Carrillo and he has admitted to his conduct, and to working with Gutierrez to smuggle wildlife into and out of the United States.

animals to Carrillo in Juarez. Carrillo smuggled the wildlife across the U.S. - Mexico border and shipped them to the purchaser in Tennessee.

GUTIERREZ's February 21, 2020 Attempted Smuggling of Wildlife

In February, 2020, USFWS agents learned from a U.S. seller of wildlife located in Florida, that a shipment containing five Jackson Chameleons (*Jacksonii jacksonii*), fifteen Veiled Chameleons (*Chamaeleo calyptratus*), 20 Green Iguanas (*Iguana iguana*), five Red Iguanas (*Iguana iguana*), all listed in CITES Appendix II, as well as ten Asian Forest Scorpions (*Heterometrus longimanus*), was scheduled to be delivered to a residence in El Paso. On February 21, 2020, USFWS conducted surveillance at this residence and observed two individuals leave the residence in a black vehicle which was registered to GUTIERREZ. USFWS followed the vehicle to the Ysleta Port of Entry in El Paso, Texas, the Western District of Texas. GUTIERREZ and the passenger attempted to cross the U.S.-Mexico border and were detained by U.S. Customs and Border Protection officers. USFWS agents arrested GUTIERREZ shortly thereafter. Subsequently, the agents learned from the passenger in the vehicle that he and GUTIERREZ had traveled from Mexico to the United States earlier that day to retrieve the above-described wildlife, and to smuggle the wildlife across the U.S. – Mexico border. According to the passenger, GUTIERREZ decided not to retrieve the wildlife in El Paso due to enhanced law enforcement activity at the U.S. – Mexico border he observed when entering the United States.

Wildlife Laws

CITES is an international agreement between governments to protect fish, wildlife, and plants that are, or may become, threatened with extinction by establishing import and export restrictions to protect these species from overexploitation through international trade. There are approximately 183 party countries to CITES, including the United States and Mexico. Under CITES, species are protected according to a classification system known as “appendices.” International trade in species listed in these appendices is monitored and regulated by permits and quotas. The permit restrictions apply to live and dead specimens, as well as the skins, parts, and products made in whole or in part from a listed species. The appendices provide a sliding scale of protection, with Appendix I providing the highest level of protection.

Wildlife and plant species listed in Appendix I of CITES are those currently threatened with extinction and that are or may be further threatened by trade. Appendix I species can be imported into the United States only if, prior to importation, the importer possess a valid CITES export document issued by the country of export, as well as valid corresponding CITES import documentation issued by the United States. Wildlife and plant species listed in Appendix II of CITES include species that are not presently threatened with extinction but may become so if their trade is not regulated. Appendix II species may be allowed in trade; however, they are strictly regulated and monitored. In order to export any wildlife species listed in Appendix II from the United

States to a foreign country, the regulations require that a valid “export permit,” issued by USFWS be obtained prior to exporting any such wildlife from the United States.

In the United States, CITES is implemented through the Endangered Species Act (“ESA”), which directs the USFWS to administer the treaty. 16 U.S.C. §§ 1537(a), 1540(f). USFWS has issued extensive regulations incorporating the specific permit requirements and provisions of CITES and listing the species contained in the CITES appendices. 50 C.F.R. § 23. The ESA makes it unlawful for anyone to engage in trade in any specimens contrary to CITES or to possess any specimens traded contrary to CITES. 16 U.S.C. § 1538(c)(1); 50 C.F.R. § 23.13(a) and (c). “Trade,” in this context, includes exportation from the United States. 50 C.F.R. § 23.5.

All exported wildlife must be declared to the USFWS in the United States. A true and complete declaration Form 3-177, Declaration for Importation or Exportation of Fish or Wildlife, must be filed at the port where clearance is requested from the USFWS at or before the time of importation. 16 U.S.C. § 1538(e); 50 C.F.R. § 14.61. Federal regulations also require that the USFWS clear all wildlife imported into the United States, and that the importer or his agent make available the wildlife being imported to the officer, as well as all required permits, licenses, or other documents. 50 C.F.R. § 14.52. The wildlife may only be cleared at certain ports authorized in the regulations, or by permit. 50 C.F.R. § 14.11.

The federal wildlife protection statute known as the Lacey Act is found at Title 16, United States Code, Section 3371 et seq. The Lacey Act makes it unlawful for any person to import, export, sell, receive, acquire, or purchase any fish or wildlife or plant taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States. 16 U.S.C. § 3372(a)(1).